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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2016–0008; Notice No. 162]

RIN: 1513–AC32

Proposed Expansion of the Outer Coastal Plain Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to expand the approximately 2.25 million-acre “Outer Coastal Plain” viticultural area in southeastern New Jersey by approximately 32,932 acres. The established Outer Coastal Plain viticultural area and the proposed expansion area do not lie within any other viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please send your comments on this notice to one of the following addresses:

- Internet: <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB–2016–0008 at “Regulations.gov,” the Federal e-rulemaking portal);
- U.S. Mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; or
- Hand delivery/courier in lieu of mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing or view or obtain copies of the petition and supporting materials.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act

provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01, dated December 10, 2013 (superseding Treasury Order 120-01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth the standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area

to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing the establishment of an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Petitioners may use the same procedures to request changes involving existing AVAs. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for modifying established AVAs. Petitions to expand an established AVA must include the following:

- Evidence that the region within the proposed expansion area boundary is nationally or locally known by the name of the established AVA;
- An explanation of the basis for defining the boundary of the proposed expansion area;
- A narrative description of the features of the proposed expansion area affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the established AVA and distinguish it from adjacent areas outside the established AVA boundary;

- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed expansion area, with the boundary of the proposed expansion area clearly drawn thereon; and
- A detailed narrative description of the proposed expansion area boundary based on USGS map markings.

Petition to Expand the Outer Coastal Plain AVA

TTB received a petition from John and Jan Giunco, owners of 4JG's Orchards and Vineyards in Colts Neck, New Jersey, proposing to expand the established "Outer Coastal Plain" AVA in southeastern New Jersey. The Outer Coastal Plain AVA (27 CFR 9.207) was established by T.D. TTB-58, which published in the **Federal Register** on February 9, 2007 (72 FR 6165). The Outer Coastal Plain AVA covers approximately 2.25 million acres in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean, and Salem Counties, New Jersey. The Outer Coastal Plain AVA and the proposed expansion area are not located within any other AVA.

The proposed expansion area is located in Monmouth County, adjacent to the western edge of the existing Outer Coastal Plain AVA boundary, and covers approximately 32,932 acres. One commercial vineyard covering a total of 30 acres is located within the proposed expansion area. The vineyard also has its own winery. The vineyard and the winery both existed at the time the Outer Coastal Plain AVA was established in 2007. The petitioners for the expansion of the AVA claim that when the AVA was established, the region of the proposed expansion was intended to be included in the AVA but was inadvertently omitted.

The petitioners state that they only recently learned that they are not within the AVA's boundaries. The petition includes a letter from the current president of the Outer Coastal Plain Vineyard Association stating that the petitioners are vineyard owners who have been members of that Association since 2006. The letter also states that the association supports the proposed expansion.

According to the petition, the soils, elevation, and climate of the proposed expansion area are similar to those of the established AVA. Unless otherwise noted, all information and data pertaining to the proposed expansion area contained in this document come from the petition and its supporting exhibits.

Name Evidence

T.D. TTB-58, which established the Outer Coastal Plain AVA, states that New Jersey has five defined physiographic regions, and the physiographic region in which the established AVA is located is called the "Outer Coastal Plain." The expansion petition includes several items that directly associate the proposed expansion area with the Outer Coastal Plain region. A website dedicated to the botany of New York, New Jersey, and Connecticut features a listing of recreational areas titled "New Jersey Natural Areas: Outer Coastal Plain."¹ Included on this list are parks within the proposed expansion area, including Dorbrook Recreation Area in Colts Neck and the Durand Park Memorial Arboretum in Freehold Township. An article prepared by the Monmouth County Health Department, titled "Natural and Cultural Features of Monmouth County," states that the Mount Pleasant Hills extend "from Keyport southwest through Imlaystown to the Delaware Bay in Salem County, and [form] the drainage divide

¹ <http://nynjctbotany.org/njouter/njoptofc.html>

between the Inner and Outer Coastal Plain.”² The petitioner notes that because Imlaystown is west of the proposed expansion area, this definition of the divide between the Inner and Outer Coastal Plains places the proposed expansion area within the Outer Coastal Plain. A geological and water survey map from the New Jersey Department of Environmental Protection shows the location of a well within Colts Neck Township near the western limits of the Outer Coastal Plain.³ Finally, a visitors’ guide for southern New Jersey, compiled by the South Jersey Tourism Corporation, includes a section on the Outer Coastal Plain AVA. The 4JG’s Vineyards, which is owned by the petitioner, is included in a listing of wineries within the AVA. TTB notes that although the petitioner’s vineyard is not technically within the boundaries of the Outer Coastal Plain AVA, its inclusion in the listing demonstrates that tourism organizations and visitors currently associate the proposed expansion area with the AVA.

Boundary Evidence

The current Outer Coastal Plain AVA spans the southeastern portion of New Jersey, from the Cape May Peninsula to just south of Raritan Bay. The Atlantic Ocean forms the eastern boundary. The southwestern boundary follows the shore of Delaware Bay. The western boundary follows a belt of low hills called *cuestas*, which separate the physiographic region known as the Outer Coastal Plain from the region known as the Inner Coastal Plain. A small portion of the Outer Coastal Plain AVA’s current western boundary forms a rough angle bracket shape (“>”), where the land between the upper and lower arms of the “>”

² [http://co.monmouth.nj.us/documents/121%5CNatural Features.pdf](http://co.monmouth.nj.us/documents/121%5CNatural%20Features.pdf)

³ <http://www.state.nj.us/dep/njgs/pricelst/gms/gms13-1.pdf>

is not within the AVA. The townships of Colts Neck, Freehold, Holmdel, and Marlboro, as well as the unincorporated community of Crawford Corners, are located within this sharp angle in the AVA boundary.

The proposed expansion area is located within this sharp angle in the Outer Coastal Plain AVA's boundary, with the angle forming the northern, eastern, and southern edges of the proposed expansion area. The proposed changes would eliminate the ">" in the AVA's current western boundary by moving the AVA's boundary westward to incorporate the land within the ">" into the Outer Coastal Plain AVA. The proposed boundary change would begin in Freehold, at the intersection of Colts Neck Road, West Main Street, and State Route 79, which is the beginning point of the bottom segment of the ">" in the current AVA boundary. However, instead of following Colts Neck Road eastward to form the bottom segment of the ">", the proposed boundary would instead follow State Route 79 northeasterly, then northerly, to the unincorporated community of Wickatunk. The proposed boundary would then proceed generally east along a series of roads, reconnecting with the current AVA boundary at the Garden State Parkway near the community of Crawford Corners, which is near the tip of the top segment of the ">" in the current boundary.

The proposed expansion area is surrounded by the current Outer Coastal Plain AVA to the north, east, and south. The Inner Coastal Plain physiographic region of New Jersey, marked by the belt of *cuestas*, begins west of the proposed expansion area. Elevations west of the proposed expansion area

begin to increase, as shown on the elevation map included with the proposed expansion petition.

Distinguishing Features

According to the proposed expansion petition, the soil, elevation, and climate of the proposed expansion area are similar to those of the established Outer Coastal Plain AVA.

Soil

According to T.D. TTB-58, which established the Outer Coastal Plain AVA, the soils of the AVA are primarily well-drained, sandy soils derived from unconsolidated sediments. The soils are described as having low pH levels and low fertility. T.D. TTB-58 did not include the names of the most common soil types in the Outer Coastal Plain AVA. The proposed expansion petition states that soils within the Outer Coastal Plain AVA generally have lower levels of clay than soils outside the AVA.

The expansion petition included soil survey maps from two sample sites within the proposed expansion area. The first sample area is located in the northwestern portion of the proposed expansion area near the proposed new boundary, and the second sample area is in the southeastern portion of the proposed expansion area near the current AVA's western boundary. The following table, compiled by TTB from data provided in the petition, lists the four most common soil types in each of the two sample areas and the percentage of the sample area covered by each soil type.

Soils of the Proposed Expansion Area	
Soil Type	Percentage of Sample Area
First Sample Area	
Freehold sandy loam	45.3
Collington sandy loam	11.9
Tinton loamy sand	9.5
Colts Neck sandy loam	6.9
Second Sample Area	
Tinton loamy sand	19.2
Collington sandy loam	16.8
Freehold sandy loam	15.9
Colts Neck sandy loam	9.3

According to the soil survey information, these four soil types all contain large amounts of sand and/or gravel, similar to the soils within the Outer Coastal Plain AVA, as described in T.D. TTB–58. Additionally, all four of these soils are moderately well-drained to well-drained, which is also a characteristic of soils of the Outer Coastal Plain AVA. Well-drained soils shed excess water quickly, reducing the risk of rot and disease in the vines.

Topography

T.D. TTB–58 states that the elevations within the Outer Coastal Plain AVA are less than 280 feet above sea level. West of the AVA are the cuestras, which separate the Outer Coastal Plain from the Inner Coastal Plain. Elevations west of this belt of cuestras are higher than those within the Outer Coastal Plain AVA. Elevations northwest of the AVA can reach as high as 1,680 feet.

The petition includes a map of elevations within and surrounding the proposed expansion area. Within both the proposed expansion area and the established AVA, elevations primarily range from 6 feet to 150 feet. The map shows a small region along the western edge of the proposed expansion area

that reaches elevations of 250 feet. Similar elevations are also shown in small regions along the Outer Coastal Plain AVA's current western boundary, where the transition to the *cuestas* begins. The map shows that the elevations within the proposed expansion area are within the range of elevations established for the Outer Coastal Plain AVA by T.D. TTB-58. The low elevations allow marine air from the Atlantic Ocean and Delaware Bay to enter both the AVA and the proposed expansion area and moderate the temperatures.

Climate

According to T.D. TTB-58, the maritime influence from the Atlantic Ocean and Delaware Bay makes the Outer Coastal Plain AVA generally warmer than the regions farther inland. As a result of warmer temperatures, the growing season within the AVA is also longer than in the surrounding regions and averages between 190 and 217 days.

The proposed expansion petition includes a map that shows the length of the growing season within the proposed expansion area and the surrounding regions. Within the majority of the proposed expansion area, the growing season ranges from 188 to 192 days. The same map shows that the majority of the portion of the AVA adjacent to the proposed expansion area has a growing season which is also within the range of 188 to 192 days. Immediately to the west of the proposed expansion area, outside of the Outer Coastal Plain AVA where the *cuestas* begin, the growing season is only between 185 and 188 days. The petition states that farther to the north and west, in the higher elevations outside both the proposed expansion area and the AVA, the growing season

length drops to between 163 to 179 days. Because of the longer growing season, vineyards within the AVA and the proposed expansion area can grow varieties of grapes that require a longer time to mature.

TTB Determination

TTB concludes that the petition to expand the boundaries of the established Outer Coastal Plain AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative description of the boundary of the petitioned-for expansion area in the proposed regulatory text published at the end of this proposed rule.

Maps

To document the existing and proposed boundaries of the Outer Coastal Plain AVA, the petitioner provided a copy of the required maps, which are listed below in the proposed regulatory text.

Impact on Current Wine Labels

For a wine to be labeled with a viticultural area name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in §4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label.

Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See §4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

The approval of the proposed expansion of the Outer Coastal Plain AVA would not affect any other existing viticultural area. The expansion of the Outer Coastal Plain AVA would allow vintners to use “Outer Coastal Plain” as an appellation of origin for wines made primarily from grapes grown within the proposed expansion area if the wines meet the eligibility requirements for the appellation.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should expand the Outer Coastal Plain AVA as proposed. TTB is specifically interested in receiving comments on the similarity of the proposed expansion area to the established Outer Coastal Plain AVA. Please provide specific information in support of your comments.

Submitting Comments

You may submit comments on this notice of proposed rulemaking by using one of the following three methods:

- **Federal e-Rulemaking Portal:** You may send comments via the online comment form posted with this notice within Docket No. TTB–2016–0008 on

“Regulations.gov,” the Federal e-rulemaking portal, at <http://www.regulations.gov>.

A direct link to that docket is available under Notice No. 162 on the TTB Web site at <https://www.ttb.gov/wine/wine-rulemaking.shtml>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the “Help” tab.

- U.S. Mail: You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.

- Hand Delivery/Courier: You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 162 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity’s name, as well as your name and position title. If you comment via Regulations.gov, please enter the entity’s name in the “Organization” blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity’s comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this notice, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2016–0008 on the Federal e-rulemaking portal, Regulations.gov, at <http://www.regulations.gov>. A direct link to that docket is available on the TTB Web site at https://www.ttb.gov/wine/wine_rulemaking.shtml under Notice No. 162. You may also reach the relevant docket through the Regulations.gov search page at <http://www.regulations.gov>. For information on how to use Regulations.gov, click on the site's "Help" tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this notice of proposed rulemaking, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the

TTB Information Resource Center, 1310 G Street NW, Washington, DC 20005.

You may also obtain copies at 20 cents per 8.5- x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or other similarly-sized documents that may be included as part of the AVA petition. Contact TTB's information specialist at the above address or by telephone at 202-453-2265 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this notice of proposed rulemaking.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Section 9.207 is amended by revising paragraph (b) introductory text, adding paragraphs (b)(8) through (10), revising paragraphs (c)(16) and (17), redesignating paragraph (c)(18) through (22) as paragraphs (c)(21) through (25), and adding new paragraphs (c)(18) through (20).

The revisions and additions read as set forth below:

§ 9.207 Outer Coastal Plain.

* * * * *

(b) Approved maps. The appropriate maps for determining the boundary of the Outer Coastal Plain viticultural area are 10 United States Geological Survey topographic maps. They are titled:

* * * * *

(8) Freehold, New Jersey, 2014, 1: 24,000 scale;

(9) Marlboro, New Jersey, 2014, 1:24,000 scale; and

(10) Keyport, New Jersey–New York, 2014, 1:24,000 scale.

(c) * * *

(16) Continue northeasterly on CR 537, crossing onto the Freehold, New Jersey, map, to the intersection of CR 537 (known locally as W. Main Street) and State Route 79 (known locally as S. Main Street) in Freehold; then

(17) Proceed northeasterly, then northerly, along State Route 79, crossing onto the Marlboro, New Jersey, map to the intersection of State Route 79 and Pleasant Valley Road in Wickatunk; then

(18) Proceed northeasterly, then southeasterly along Pleasant Valley Road to the road's intersection with Schank Road, south of Pleasant Valley; then

(19) Proceed easterly along Schank Road to the road's intersection with Holmdel Road; then

(20) Proceed northerly along Holmdel Road, crossing onto the Keyport, New Jersey–New York map, to the road's intersection with the Garden State Parkway, north of Crawford Corners; then

* * * * *

Signed: September 14, 2016.

John J. Manfreda,

Administrator.

[FR Doc. 2016-22635 Filed: 9/19/2016 8:45 am; Publication Date: 9/20/2016]